

Notice of Allowability

Application No.

10/660,815

Examiner

Ginger T. Chapman

Applicant(s)

YOUNG, HARVEY THEODORE

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4 September 2007.
2. ☒ The allowed claim(s) is/are 1-33.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Election/Restrictions

This application is in condition for allowance except for the presence of newly added claims 46-49 directed to Species 2 (Restriction Requirement 28 February 2007) and newly added claims 50-52 directed to Species 4 (Restriction Requirement 28 February 2007) non-elected with traverse. Accordingly, claims 46-52 have been cancelled.

Claims 1-33 are allowable. The restriction requirement among species, as set forth in the Office action mailed on 15 March 2006, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.**

Claim 17, 26, 28 and 29, directed to attachment flanges wherein the two interior surfaces are spaced apart from one another at the center section and converge at the two ends, as specifically recited in claim 1, are no longer withdrawn from consideration because the claims require all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Reasons for Allowance

Claims 1-33 are allowed.

The following is an examiner's statement of reasons for allowance:

The closest prior art uncovered during examination discloses the following elements:

US Patent No. 6,280,431 B1 issued to Dombrowski et al: teaches a flexible container, a container port comprising a nozzle having an internal diameter, integrally molded to an attachment flange disposed between the front and rear sheets of the container, wherein the attachment flange comprises two ends and a first and second attachment flange layers each having an interior surface and exterior surface attached to one another along one edge and a center section and the two interior surfaces of the attachment flange are spaced apart from one another at the center section. Dombrowski does not teach the attachment flange interior surfaces converge at the two ends, and does not teach wherein a distance measured between the two ends at a point spaced apart from the container port is large than the internal diameter of the nozzle.

US Patent No. 6,974,447 B2 issued to Smith et al: teaches a flexible container comprising a container port comprising a nozzle, which has an internal diameter, and the nozzle is integrally molded to the front and rear sheets comprising the flexible container at an attachment point comprising the front and rear sheets of the flexible bag container. Smith does not teach the nozzle molded to attachment flanges and the flanges molded to the front and rear sheets of the flexible container.

US 6,726,667 B2 issued to Leise, Jr. et al: teaches a flexible container and attachment flanges having interior surfaces spaced apart from one another at a center section and converging at the two ends. Leise does not teach the container comprising a port comprising a nozzle.

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While the prior art of record discloses various elements of flexible bag containers, ports, nozzles and attachment flanges, none disclose or fairly suggest the nozzle molded to attachment flanges in combination with the attachment flanges having interior surfaces spaced apart from one another at the center section and converging at the two ends, and wherein a distance measured between the two ends at a point spaced apart from the container port is larger than the internal diameter of a nozzle, as now specifically recited in claim 1. These features render the claimed invention nonobvious over the prior art of record. Claims 2-33 are allowable as being dependent from independent claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571) 272-4934. The examiner can normally be reached on Monday through Friday 9:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ginger Chapman
Examiner, Art Unit 3761
09/30/07



TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

